

REMARKS

Amendments to the Claims

Claims 26 and 28-29 are pending herein. Withdrawn claims 27, 30-33, 36-38, claims 34-35 and newly added claims 55-70 have been canceled without prejudice to their prosecution in a continuing application. Claims 26 and 34 amended herein to specify that G is guanosine. No new matter has been added.

Written description

Claims 26, 28-29, 34-35, 55 and 66-67 are currently rejected as failing to meet the written description requirement. This rejection is rendered moot as to claims 34-35, 55 and 66-67, which have been canceled. With respect to claims 26 and 28-29, Applicants respectfully traverse this rejection.

Independent claim 26 recites the use of specified immunostimulatory oligonucleotides to induce an immune response in a patient. The oligonucleotides are limited to those containing an immunostimulatory dinucleotide C*G, wherein C* is defined by the Markush group “selected from the group consisting of 5-hydroxycytosine, 5-hydroxymethylcytosine, N4-alkylcytosine and 4-thiouracil.”

The PTO has already decided that these oligonucleotides themselves meet the written description requirement, as evidenced by the issuance of USPN 7,262,286 from a parent application having an identical specification. Thus, the only difference between the claim 26 and the issued claims is that claim 26 specifies that the immunostimulatory oligonucleotides elicit an immune response.

The presently maintained rejection incorrectly states that this is demonstrated for only a single species. In fact, a review of Figures 23, 24 and 26 shows that the claimed oligonucleonucleotide compounds wherein C* is 5-hydroxycytosine, 5-hydroxymethylcytosine, or 4-thiouracil are all immunostimulatory. Thus, written description is demonstrated for 3 of the 4 members of the Markush group. The Office Action shows no reason to doubt the ability of the fourth member of the Markush group, wherein C* is N4-alkylcytosine, to also be immunostimulatory. Thus, Applicants respectfully submit that claims 26 and 28-29 satisfy the written description requirement. Indeed it was Applicants who were the first to demonstrate the

ability of oligonucleotides satisfying this Markush group limitation to elicit an immune response. Accordingly, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner believes that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned attorney at 781-933-6630.

Respectfully submitted,

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Keown & Zuccherino, LLP
500 West Cummings Park
Suite 1200
Woburn, MA 01801
Telephone: 781/938-1805
Facsimile: 781/938-4777

By: W.A.K.

Wayne A. Keown
Registration No. 33,923